

# The Corporation of The Municipality of Hastings Highlands

## Bylaw 2025-012

### A Bylaw to Designate a Site Plan Control Area within the Municipality of Hastings Highlands

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**Whereas** Section 41(2) of the *Planning Act*, R.S.O. 1990, ch.P.13, as amended, provides that where an area is described as a site plan control area in the Official Plan, Council may designate such area as a Site Plan Control Area;

**And Whereas** the Official Plan for the Corporation of the County of Hastings describes the whole of the County of Hastings as an area subject to Site Plan Control;

**And Whereas** Section 41(4.0.1) of the *Planning Act* requires Council to delegate authority for Site Plan Control;

**And Whereas** Section 41(13) of the *Planning Act* provides that Council may, by bylaw, exempt certain classes of development from Site Plan Control;

**And Whereas** Council deems it expedient to enact Site Plan Control to designate all the lands within the geographic limits of the Municipality as a Site Plan Control Area;

**Now Therefore, The Council of The Corporation of The Municipality of Hastings Highlands Enacts As Follows:**

1. This Bylaw may be cited as the "Site Plan Control Bylaw."

#### **Site Plan Control Area**

2. That all the lands within the geographic limits of the Municipality of Hastings Highlands in the County of Hastings are hereby designated as Site Plan Control Area pursuant to Section 41 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended.

#### **3. Definitions**

- a) "Development" shall mean development as defined in Section 41 of the *Planning Act*. Development includes redevelopment.
- b) "Municipal Planner" shall mean the Municipal Planner employed by the Municipality or acting in that capacity as designated by the Chief Administrative Officer (CAO).
- c) "Municipality" shall mean the Corporation of the Municipality of Hastings Highlands.

- d) "Owner" shall mean a person, corporation or firm whose interest in the land is defined and whose name is specified in an instrument in the local registry office.
- e) "Temporary use" shall mean a use that is intended to be for a short period of time or of a temporary nature, including, but not limited to, a construction trailer or structures incidental to development, a vendor, mobile food vendor, public market, or a special occasion event such as a wedding.
- f) "Zone" shall mean the category of land use as defined by the Comprehensive Zoning Bylaw, as amended, of the Municipality.
- g) Where a definition is not provided for in this Bylaw, such definition shall be the same as the definition in the Comprehensive Zoning Bylaw.

#### **4. General Provisions**

- a) No development is permitted within the Site Plan Control Area unless the owner enters into a Site Plan Control Agreement with the Municipality at the owner's expense, except where exempted.
- b) The following development shall be subject to Site Plan Control:
  - i) New non-residential developments or additions to existing non-residential developments.
  - ii) New non-residential development or redevelopment or additions to existing non-residential developments located along an arterial or collector road as classified in the Hastings County Official Plan.
  - iii) Any residential development containing ten (10) or more dwelling units.
  - iv) Tourist establishment use.
  - v) Cannabis production and processing facility.
  - vi) Commercial parking lots containing more than ten (10) parking spaces and commercial parking structures.
  - vii) Any Development within 30 metres of the high-water mark of a watercourse or waterbody.
  - viii) Community Facility or Private Schools: Any new development of or conversion to a Community Based Care facility, private school, place of worship, private social facility, cultural facility, or community centre as described in the Hastings County Official Plan.
  - ix) Any development deemed to require site plan approval by the Municipality upon recommendation from an appropriate department or external agency.

- x) Outdoor commercial / recreational: Any development of a commercial outdoor recreational facility such as a camping establishment, tourist establishment, swimming pool facility, amusement park, or other similar use.
- c) As part of the site plan approval, the Municipality may require a road widening on roads that abut on the subject land in accordance with the applicable policies of the County of Hastings Official Plan.

## 5. Exemptions

- a) Notwithstanding anything in this Bylaw, the following classes of development may be undertaken without the approval of plans and drawings otherwise required under Section 41 of the *Planning Act*, and this Bylaw does not apply to such classes:
  - i) Any residential development containing less than ten (10) dwelling units, including any accessory uses to such development, where such development is more than 30 metres from a waterbody or watercourse and more than 300 metres from an “at-capacity” cold water lake trout lake.
  - ii) Minor modifications to existing development currently subject to a registered Site Plan Control Agreement with the Municipality that do not have the effect of substantially increasing the size or usability of any building or structure, or alter grading or drainage shall be exempt from Site Plan Control at the discretion of the Municipal Planner.
  - iii) Agricultural buildings and structures, except for a Cannabis Production and Processing Facility.
  - iv) Accessory structures to a commercial or industrial use with a ground floor area of 30 square metres or less or at the discretion of the Municipality when the proposal will not have the effect of substantially increasing the size or usability of the use.
  - v) Additions to or extensions of existing commercial or industrial development with a ground floor area of 30 square metres or less or at the discretion of the Municipality when the proposal will not have the effect of substantially increasing the size or usability of the structure.
  - vi) A public use.
  - vii) A utility.
  - viii) Home occupation use.
  - ix) Home industry use.
  - x) Temporary use.

- xv) A portable classroom on a school site of a district school board.
  - xii) Signs and fences, where such are not erected as part of development.
  - xiii) Forestry and conversation use.
  - xiv) Any development, buildings, or structures erected by the Municipality.
  - xv) The re-construction or renovation of a legal non-conforming building or structure within the same building envelope, footprint, and location as the existing legal non-conforming building or structure.
  - xvi) Additions or extensions of 30 square metres or less ground floor area to a legal non-conforming building and structure, where such development is more than 30 metres from a waterbody or watercourse.
- b) Where an owner has entered into an Agreement for development as condition of an Application under Section 34, 36, 45, 50, 51 or 53 of the *Planning Act*, a Site Plan Control Agreement is not required, unless the Municipality deems the development requires Site Plan Control approval.

## 6. Pre-Consultation

- a) Prior to the submission of plans and drawings, the owner or their authorized agent shall consult with the Municipality in accordance with Section 41 of the *Planning Act*.

## 7. Application, Plans and Drawings

- a) Every Site Plan Control Application shall be accompanied by the:
- i) The plans referred to in Paragraph 1 of Subsection 41(4) of the *Planning Act*;
  - ii) The drawings referred to in Paragraph 2 of Subsection 41(4) of the *Planning Act*; and
  - iii) All information and material, including reports and studies, required by the Municipality.

## 8. Conditions

- a) As a condition of the approval of plans and drawings, the Municipality may require the owner of the lands to fulfill conditions referred to in Subsection 41(7) of the *Planning Act*.
- b) That Site Plan Control Agreements shall be entered into and shall be in registerable form and at the opinion of the Municipality may be registered against the title of the land at the expense of the Owner.

- c) That the Owner for Site Plan Control approval shall pay all expenses incurred by the Municipality for the review and processing and approval of Site Plan Control and Site Plan Control Agreements.

## **9. Securities and Completion of Works**

- a) The Municipal Planner, or designate, may require that securities be delivered to the Municipality, in such amount as the Municipality deems necessary and appropriate, to ensure the provision and maintenance of the site works as shown on an approved site plan. Securities are to be submitted in a form deemed acceptable to the Municipality.

### **b) Calculation of Security Amount**

- i) Where the owner is required to enter into a Site Plan Control Agreement, and the Agreement requires the submission of financial security in order to guarantee compliance with the conditions of the Agreement, including satisfactory completion and/or maintenance of the facilities and works required by the Agreement and the approved plans and drawings listed therein, the owner shall file with the Municipality, a letter of credit in an amount as determined by the Municipality. The amount of the security shall be based on the estimated cost of the approved facilities and works and shall be calculated as follows:
- ii) The owner shall submit an estimated cost of the approved facilities and works for review and approval by the Municipality. The cost estimate shall be prepared by a professional engineer, landscape architect, architect or other qualified person as required by the Municipality. The amount of security shall be determined by the Municipality based on the submitted cost estimate. The approved cost estimate will be appended to the Site Plan Control Agreement.

### **c) On-Site Securities**

- i) The amount of security shall equal 50% of the estimated cost of the On-site Improvements.
- ii) Where the buildings and structures of a proposed development cover a large percentage of the site, the CAO, in his or her sole discretion, may require security in an amount equal to 10% of the first \$500,000 of the total value of construction on the site, plus 1% of the balance of the total value of construction on the site, more than \$500,000.

**e) Off-Site Works**

- i) For all off-site facilities and works, the amount of security shall equal 100% of the cost of the approved facilities and works.

**f) Submission of Security**

- i) Security required in accordance with this Bylaw shall be submitted to the Municipality upon execution of the Site Plan Control Agreement.

**g) Acceptable Forms of Security**

- i) The preferred security shall be an irrevocable letter of credit in a form approved by the Municipality. Alternative forms of deposit may be considered in consultation with the Municipality. They are:
  - a) Money Order
  - b) Certified Cheque
  - c) Electronic money transfer
- ii) Other means prescribed by the Minister through regulation pursuant to Section 70.3.1 of the Planning Act.

**h) Security for Multi-Phase Developments**

- i) Where a multi-phase development is proposed, the Municipality, in its sole discretion, may permit security to be submitted for the initial phase of the development. The security may be applied to subsequent phases of the development provided that:
  - a) All phases of the development are being undertaken by the same owner and are located on contiguous lands;
  - b) The proposed phasing is reflected on the approved plans and drawings and in the approved cost estimates;
  - c) If a letter of credit is provided as security, the letter of credit applies to all phases of the development;
  - d) The amount of the security is calculated based on the estimated cost of the most expensive phase of development; and
  - e) Development of the phase to which the security applies must be substantially complete to the satisfaction of the Municipality before the security may be applied to any subsequent phase.

**i) Security Reductions**

- i) Requests for security release may be submitted to the Municipality once all required facilities and works on the approved plans and drawings have been completed and all conditions in the Site Plan Control Agreement have been satisfied. Securities may be released in accordance with the following:
  - a) The owner shall submit a written request for security release, a certificate from a qualified person confirming that all required facilities and works have been completed in accordance with the approved plans and the Site Plan Control Agreement;
  - b) The Municipality may conduct a site inspection to confirm the satisfactory completion of facilities and works;
  - c) The Municipality may release up to a maximum of 90% of the initial security amount;
  - d) Where deficiencies are identified, the security release may be delayed or reduced until the deficiencies have been remedied;
  - e) Where the total value of the security required is \$10,000 or less, the Municipality, in its sole discretion, may release up to 100% of the security, if the owner has provided a certificate of a qualified person and the site inspection by the Municipality confirms that all required facilities and works have been completed.
  - f) The remaining 10% of the initial security amount will be held by the Municipality for a minimum of one (1) year as a maintenance security to ensure that all facilities and works on the site, including landscaping, are maintained and that any necessary repairs or replacements are completed.

**j) Draws from Security to Remedy Defaults**

- i) In the event a person is in default of any conditions of approval relating to a site plan issued by the Municipality under subsection 41 (7) of the *Planning Act* including but without limiting the foregoing default of any provisions of a site plan agreement entered pursuant to subsection 41 (7) of the *Planning Act*, the provisions of section 446 of the *Municipal Act, 2001 S.O. 2001 c.25 as amended* shall apply.

**10. Administration**

**a) Delegation of Authority**

- i) That Council delegates authority to the Municipal Planner, or designate, for approval of plans or drawings for applications under Section 41 of the *Planning Act* in accordance with a complete application consisting of subsection 41(4) of the *Planning Act*, the requirements in the Official

Plan for the Corporation of the County of Hastings, and any requirements from the Municipality of Hastings Highlands.

- ii) That the CAO and Clerk, or designates, are hereby delegated the authority to be the signing authority for an Agreement under Section 41 of the *Planning Act*.
- iii) That the CAO and Clerk, or designates, are hereby authorized and empowered on behalf of the Corporation of the Municipality of Hastings Highlands to execute all documentation required to register this Bylaw and any Agreement under Section 41 of the *Planning Act* in the Land Registry Office.

**b) Review and Approval**

- i) That the standards and provisions for the Municipality's Comprehensive Zoning Bylaw, the standards and provisions of all other applicable Municipal by-laws, and all applicable Municipal engineering standards, shall be the standards and provisions against which any submission for Site Plan Control approval shall be examined.
- ii) Prior to making a decision on any application, the Municipal Planner shall consult with such other persons or agencies as they consider necessary.
- iii) The power to revoke any approval of plans and drawings is hereby delegated to the Municipal Planner, who may revoke such approval where:
  - a) The approval has been granted on mistaken or false or incorrect information;
  - b) The approval has been granted in error;
  - c) The applicant for the approval has requested in writing that it be revoked; or,
  - d) Two (2) years after the approval has been granted, the development in respect of which the approval has been granted has not been seriously commenced in the reasonable opinion of the Municipal Planner.

**c) Issuance of Building Permits**

- i) Notwithstanding any provisions of the Building Bylaw or any other Bylaw of the Municipality to the contrary, no building permit shall be issued until the plans and drawings and any such agreements required by the Municipality for such development have been registered on title to the lands, its delegate, or where a referral has been made to the Ontario Land Tribunal or so ordered by a Court of competent jurisdiction.



- ii) Nothing in this Bylaw shall prevent development on any lands subject to this Bylaw where such development is proceeding in accordance with a valid building permit which was issued by the Municipality prior to the passing of this Bylaw.

**d) Violations and Penalties**

- i) Any person who contravenes any of the provisions of Section 41 of the *Planning Act*, or its successors thereto, or the provisions of this By-Law is guilty of an offence and on conviction is liable to the penalties provided for in Section 67 (1) and (2) of the *Planning Act*, or its successors thereto, as follows:
  - a) Where a person is convicted, and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, the maximum penalty that may be imposed is:
    - a. on a first conviction, to a fine of not more than \$25,000; and
    - b. on a subsequent conviction, to a fine or not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.
  - b) Where a corporation is convicted, the maximum penalty that may be imposed is:
    - a. on a first conviction, to a fine of not more than \$50,000; and
    - b. on a subsequent conviction, to a fine or not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted.

**e) Validity**

- i) If any section, clause, or provision of this Bylaw is, for any reason, declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the Bylaw as a whole or any part hereof other than the section, clause or provision so declared to be invalid. It is hereby declared to be the intention that the remaining sections, clauses provisions of this Bylaw shall remain in full force and effect until repealed, notwithstanding that one or more provisions hereof shall have been declared to be invalid.

**f) Interpretation**

- i) For the purposes of this Bylaw, words used in the present tense also include the future; words in the singular also include the plural and words in the plural include the singular number; and the word "shall" is mandatory.

**g) Administrator**

- i) This Bylaw shall be administered by the Municipal Planner or designate.

11. That this bylaw repeals any preceding bylaws, including Bylaws 2006-013, 2007-016, and 2022-036.

**Coming Into Force**

12. That this bylaw shall come into force and take effect on the 15<sup>th</sup> day of January, 2025.

**Enacted and Passed** in Council this 15<sup>th</sup> day of January, 2025.



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Tony Fitzgerald, Mayor



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Suzanne Huschilt, Municipal Clerk